IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

GIFT TAX REFERENCE Nos 22, 23, 24, 26, 27, 28 of 1986
and
GIFT TAX REFERENCE Nos 19, 26 & 27 of 1987
(Nine matters)

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF GIFT TAX

Versus

KAMALINI KHATAU

Appearance:
MR MANISH R BHATT for Petitioner No. 1
MR RK PATEL for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 06/09/2001

COMMON ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In these references at the instance of the revenue, the following common question has been referred to us for our opinion in respect of assessment years 1976-77 (GTR Nos. 22, 23, 24, 26, 27, 28 of 1986), 1977-78 (GTR No. 26 & 27 of 1987) and 1979-80 (GTR No. 19 of 1987) :-

"Whether, the Tribunal has not erred in law and on facts in holding that the full value of the property for which the power of appointment was exercised by the assessee in favour of certain trusts could not be taken for the purpose of Gift-tax but only the value of the assessee's interest therein with reference only to the date of exercise of the power of appointment has to be taken ?"

2. We have heard Mr MR Bhatt, learned counsel for the revenue and Mr RK Patel, learned counsel for the assessees. Both the learned counsel fairly state that the controversy raised herein is concluded against the revenue by our decision dated 4.9.2001 in Gift Tax Reference No. 2 of 1986 (question No. 4 in GTR No. 2/86).

3. Since the facts giving rise to these references are similar to the facts which gave rise to Gift Tax Reference No. 2 of 1986 and the identical question raised therein is raised herein, following the aforesaid decision dated 4.9.2001 in Gift Tax Reference No. 2 of 1986, we hold that the Tribunal has not erred in holding that the full value of the property for which the power of appointment was exercised by the assessee in favour of certain trusts could not be taken for the purpose of Gift-tax but only the value of the assessee's interest therein with reference only to the date of exercise of the power of appointment must be taken. We accordingly answer the question in the affirmative i.e. in favour of the assessee and against the revenue.

The references accordingly stand disposed of with no order asto costs.

(M.S. Shah, J.)

(D.A. Mehta, J.)

sundar/-